



Center for Clinical Standards and Quality /Survey & Certification Group

Ref: S&C: 15-19-CAH

DATE: January 16, 2015

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Revised State Operations Manual (SOM) Appendix W, Critical Access Hospitals (CAHs)

Memorandum Summary

The Centers for Medicare & Medicaid Services (CMS) CAH Conditions of Participation (CoPs) Changed in Two Final Rules:

- CMS-3267-F was published on May 12, 2014 and portions related to CAHs became effective July 11, 2014. Among other provisions, this final rule revised the CAH Conditions of Participation (CoP) requirements related to the responsibilities of doctors of medicine (MDs) and doctors of osteopathy (DOs).
- CMS-1599-F was published August 19, 2013 and became effective October 1, 2013. This final rule revised the CAH CoP requirements related to provision of inpatient acute care services.

SOM Appendix W Updated:

- We are updating the pertinent portions of the CAH interpretive guidelines, found in SOM Appendix W, to reflect these rule changes.
- In addition, we are taking this opportunity to update the guidance for the portions of 42 CFR 485.635 addressing the following topics, in order to bring them into alignment with current accepted standards of practice: pharmacy services; infection prevention and control; dietary services; services under arrangement; nursing services; and rehabilitation services.

Two final rules published by the CMS include changes to the CAH CoPs:

- “Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of

Participation; Payment Policies Related to Patient Status,” published August 19, 2013 and effective October 1, 2013 (78 Fed. Reg. 50495).

- “Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction; Part II,” published May 12, 2014 and effective July 11, 2014 (79 Fed. Reg. 27105).

Briefly, the new and revised CAH regulations from these two final rules are:

- Designation and Certification of CAHs, §485.606:

The cross-reference to hospital swing bed services found in this CAH regulation was revised to reflect the renumbering of the hospital regulation. This CAH regulation prohibits a State from denying CAH designation to an otherwise eligible hospital solely because the hospital provides swing bed services. The revision has no substantive effect on the current CAH requirement. *This change was effective July 11, 2014.*

- Number of Beds and Length of Stay, §485.620:

The provision at §485.620(a) was revised to remove an outdated reference to a January 1, 2004 effective date, after which a CAH may not maintain more than 25 inpatient beds that may be used to provide either inpatient or swing-bed services. *This change was effective October 1, 2013.* The revision has no substantive effect on the current CAH requirement.

- Staffing and Staff Responsibilities, §485.631:

o §485.631(b)(1)(v) & (vi) were revised, *effective July 11, 2014*, to:

- o Addresses the confusion about the prior rule’s requirements concerning physician review of outpatient records by deleting §485.631(b)(1)(vi) and incorporating its provisions into §485.631(b)(1)(v). The revised requirement calls for a CAH MD or DO to periodically review and sign a sample of outpatient records of those patients cared for by non-physician practitioners (nurse practitioners, clinical nurse specialists, certified nurse midwives, or physician assistants), but only to the extent required under State law where State law requires such record reviews and/or co-signatures by a collaborating physician.

The amended requirement is not substantively different from the previous CAH requirement, but is stated more clearly.

- o Removes the requirement for those reviews which are required under State law to take place at least every two weeks.
- o §485.631(b)(2) was revised, *effective July 11, 2014*, to remove the requirement that an MD or DO must be present in the CAH at least once every two weeks. CAH MDs/DOs are now required to be present for sufficient periods of time to provide medical direction,

consultation, and supervision for the services provided in the CAH. This revision recognizes that many of the MD/DO required functions may be performed remotely via electronic means, and that the time required to be on-site will vary from CAH to CAH, depending on the volume and type of services they offer.

- Provision of Services, §485.635:
 - §485.635(a)(2) was revised to remove the requirement for the CAH's patient care policies to be developed with the advice of at least one individual who is not a member of the CAH's professional healthcare staff. *This change was effective July 11, 2014.*
 - §485.635(a)(3)(vii) was revised to remove the conditional language that could have been misunderstood as making it appear optional for a CAH to provide acute inpatient services. *This change was effective October 1, 2013.*
 - §485.635(b)(1) was revised to add a new, explicit requirement at §485.635(b)(1)(ii) for CAHs to furnish acute care inpatient services. After regulation changes adopted in 2012 removed language referring to "direct" services a CAH must provide, as opposed to services a CAH may provide under arrangement, the language remaining could have been misinterpreted to suggest that a CAH must only provide outpatient services. *This change was effective October 1, 2013.*
 - §485.635(c) was revised to remove inpatient hospital care as a service that may be provided under arrangement, to avoid creating the misperception that CAHs are not required to furnish inpatient services. *This change was effective October 1, 2013.*

We have revised our interpretive guidelines in Appendix W of the SOM, to reflect these rule changes.

In addition to the changes based on the revised regulations, we are taking this opportunity to update the guidance in Appendix W for the portions of 42 CFR 485.635 addressing the following topics, in order to bring them into alignment with current accepted standards of practice: pharmacy services; infection prevention and control; dietary services; services under arrangement; nursing services; and, rehabilitation services.

An advance copy of the revised portions of SOM Appendix W is attached. The online SOM will be updated at a later date and may differ slightly from this advance copy.

Revisions have also been made to Tags in the Automated Survey Processing Environment (ASPEN) to correspond to the revised guidance. Note that some tags have been consolidated or address different regulations than previously.

Questions concerning this memorandum should be addressed to CAHSCG@cms.hhs.gov.

Effective Date: Immediately. Please ensure that all appropriate staff are fully informed within 30 days of the date of this memorandum.

Training: The information contained in this letter should be shared with all survey and certification staff, their managers, and the State/RO training coordinators.

/s/

Thomas E. Hamilton

Attachment: 1- Revisions to State Operations Manual Appendix W, related to critical access hospitals.

cc: Survey and Certification Regional Office Management